

**Minutes of Meeting  
Grafton Planning Board  
September 9, 2013**

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GRAFTON, MA.

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A regular meeting of the Grafton Planning Board was held on September 9, 2013 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman David Robbins, Vice-Chair Michael Scully, Clerk Edward Prisby, Robert Hassinger, Sargon Hanna and Associate Member Mathew Often. Staff present was Town Planner Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Robbins called the meeting to order at 7:00 p.m.

**ACTION ITEM 1-A. CONSIDER SITE PLAN 2013-1 MICHAEL NOEL (D/B/A NOEL'S AUTO SALES, ICN.) 218 WORCESTER STREET**

Mr. Bishop provided a status report noting that the Conservation Commission had submitted a letter and that Land Planning, Inc. representing the Applicant, had also submitted correspondence and a revised site plan.

Mr. Norman Hill of Land Planning, Inc. stated that the revised plan addresses issues raised by Graves Engineering and the Conservation Commission. Changes included the removal of invasive plants existing on site and the loaming and seeding of the gravel area around the site. He noted that the total site work consisted of approximately 6,000 square feet of mitigation which is greater than the proposed footprint of the new building (5,000 square feet). Mr. Hill stated that the Commission was satisfied with the revised plan, that they closed the hearing and will be issuing an order of conditions.

Mr. Hanna noted that the Applicant had also submitted an erosion control plan with a blanket detail and asked if this was requested by or required from the Conservation Commission. Mr. Hill stated that the Commission had not requested this information. It is a standard submission prepared by his office.

Mr. Scully asked if the additional seeding shown on the plan was outside the existing paved area to which Mr. Hill replied in the affirmative.

Motion to close the proceedings made by Mr. Hassinger and seconded by Mr. Hanna. Motion passed unanimously.

Motion to direct staff to draft a decision taking into consideration all materials submitted and testimony received made by Mr. Hassinger and seconded by Mr. Scully. Motion passed unanimously.

**STAFF REPORT**

Mr. Bishop outlined a number of items that are tentatively scheduled for the September 23<sup>rd</sup> meeting including the following:

- An ANR (Approval Not Required) Plan for a property on North Street.

- Tufts will be presenting a Project Plan Review application to address the relocation of their frozen meat sales venue from the Elms Café currently existing on site to another location. The success of their operation has necessitated this move. The zoning enforcement officer felt it was important for the Board to review this change under the umbrella of Project Plan Review.
- The Board will have two draft decisions to consider – Site Plan Approval for Noel's Auto Sales at 218 Worcester Street and the Special Permit / Site Plan Approval for the keeping of livestock under 5 acres at 132 Brigham Hill Road.
- Several public hearings are on the draft agenda including Troiano Trucking on Creeper Hill Road. Mr. Bishop noted that there are several issues pertaining to stormwater management which the Applicant has been apprised of. To date there has been no response from the Applicant about submission of materials to address these issues. The zoning articles discussed by the Board will be presented in two separate hearings.
- The Grafton Hill subdivision is also scheduled to return to the Board. Mr. Bishop reported that there has been no real resolution from the Conservation Commission regarding how to proceed. They are still amenable to meeting with the Planning Board in an informal manner however the scheduling of that meeting continues to be problematic. The Conservation Commission is not available to meet with the Board at their next meeting (9/23/13) but Mr. Bishop would continue to coordinate with the Conservation Agent about a mutually agreeable time. He stated that he will also continue to work with the Applicant and the attorney for the McInnis land owner. It was noted that the Commission may be reluctant to offer an opinion on a course of action in the absence of a formal submittal. Mr. Robbins noted that this issue needs to be resolved prior to the Applicant returning to the Board and expecting forward motion. Mr. Hassinger stated that it would be helpful to have the Board and the Commission meet informally to discuss the options and possibilities for moving forward.

Mr. Bishop reviewed the project status of the Mill Villages Park. An electrical engineer has been hired to develop the plans for the installation of the decorative lighting on the bridge. The fixtures have been donated by Mass. Highway through the efforts of Representative Peterson.

The wayside panel for the canal has been contracted to a fabricator who has developed these panels for other locations on behalf of the Heritage Corridor Commission. The panel presents information, photos and a map discussing the Blackstone Canal and will be installed canal side at the Park. The Heritage Corridor Commission is partially funding the fabrication and installation of the Grafton sign.

The second phase of the commemorative brick program for the Memorial Plaza has been launched. Bricks are now on sale and will be until March 2014 or until fully subscribed.

The Blackstone Valley Bluegrass Band will be performing on Friday, September 13<sup>th</sup> at 6:30 p.m. at the Park. It's a free concert open to the public. Buggy Whip catering will be on site to sell food.

Mr. Bishop met with Gene Bernat to discuss the development of the two sites – the old Agway parcel and the old Mill parcel. Mr. Bernat is working towards cleaning up the mill site by cutting

brush and other items that will increase the visual appeal of the area. The Conway School of Design visited the site and is working with Mr. Bernat to update the site plan which will be used to help market the sites.

The greenhouse / Eco-Machine has generated much interest by local colleges and universities as part of their environmental sciences curriculums. To date Brown University, Worcester Polytech Institute, Tufts University, and Clark University have all been involved in exploring ways to support and promote the ongoing use and development of this technology. In light of new state and federal regulations many see this technology as part of the solution. The interest generated by this project provides high visibility for the Town.

### **MINUTES OF PREVIOUS MEETING**

Motion to adopt the minutes as drafted made by Mr. Hassinger and seconded by Mr. Scully. Motion passed unanimously.

### **REPORTS FROM PLANNING BOARD REPRESENTATIVES ON TOWN COMMITTEES AND CMRPC**

Mr. Hassinger noted that previous correspondence regarding the Town's input on the proposed slot machine casino in Millbury is no longer relevant. The project is not moving forward and there is no longer any need to submit comments to CMRPC.

Mr. Scully requested that the Planning Board appointment to the Community Preservation Committee be taken up at a future meeting. Mr. Scully is the current representative but does not wish to serve going forward. He noted that Mr. Hanna has expressed interest. The Board needs to vote on the appointment.

### **PUBLIC HEARING 9A – SPECIAL PERMIT 2013-6 – FAITH SZCZURKO – RAISING AND KEEPING OF LIVESTOCK (3 HORSES) ON LESS THAN 5 ACRES – 132 BRIGHAM HILL ROAD**

Mr. Robbins opened the hearing noting that the Applicant had submitted a revised site plan showing the new location of the manure pad and the distances to the surrounding properties and structures as requested at the last Board meeting.

Brian and Faith Szczurko reviewed the modifications made to the plan. The manure pad will be made of concrete and will have walls on three sides. The walls will not exceed four feet in height. They propose having the manure pile hauled away bi-monthly or more frequently as needed. Distance to other structures were discussed and Mr. Hanna wanted to know how far the pad was to their house. It is approximately 110 feet away.

Mr. Hassinger noted that the Board had received copies of previous Board decisions pertaining to the keeping of horses on less than five acres almost all of which include conditions pertaining to manure management and the permit running with the Applicant and not the land. Mr. Bishop

noted that they Board should have also received additional recent decisions pertaining to the keeping of livestock such as the alpaca / chicken application at 211 Providence Road and the application pertaining to the keeping of goats on Brigham Hill Road which have varying conditions pertaining to both issues.

Mr. Hassinger asked the Applicants if they had seen these decisions to which they replied yes. He further stated that the Board would be required to consider decision language that addresses the manure management and the disposition of the permit as it relates to the property or the Applicant. Mr. Robbins added that the other decisions refer to a manure management plan for the cleaning every three months. The Applicants were asked if they would be amenable to these types of conditions. The Applicants were agreeable to the conditions pertaining to the manure management plan but had some concerns about the transferability of the permit should they decide to sell their property.

The Board and the Applicant discussed the two options pertaining to the permit. Most of the previous decisions specify that the permit runs with the Applicant / Owner and not with the property. In the event of sale, the future property owners would have to apply for the permit. The Applicants expressed concern about the impacts of such a condition would have on the marketability of their property in the future. They noted that several properties in the immediate vicinity have barns with horses and that they were proposing a use in keeping with the character of the neighborhood. The proposed barn represents a significant financial commitment and would be represent an important aspect for marketing the property.

Mr. Hassinger reviewed the nature of special permits as they relate to zoning and the Board's responsibility for making balanced decisions not only for the Applicants but for the future of the Town. Each case is based on a number of factors to provide a balanced outcome. Livestock kept on property under 5 acres is specifically called out in the zoning by law for a number of reasons and the Board has the right to set conditions that protect all. Mr. Hassinger cited Section 1.5.5(g) of the Zoning Bylaw which requires the Board to evaluate applications based on general compatibility with adjacent properties and other properties in the district. The keeping of livestock on land under 5 acres is called out by the Zoning Bylaw for a reason and the Board has responsibility to ensure that it's decisions are balanced within the framework of the Bylaws for current and future property owners. Granting the special use permit with the condition that it runs with the Applicant / Owner ensures that some layer of protection is afforded to the Town and does not set a precedent of allowing these uses to erode the nature of "special permit" thus becoming uses allowed by right.

Mr. Szczurko noted that Grafton is agricultural in nature and that the keeping of horses was a part of that. He stated that they could have opted to use the property to generate agricultural income which the state allows for operations of any acreage. Mr. Hassinger pointed that they would have to consistently generate \$1,000 per acre per year of revenue which must be certified by the State to be eligible for the exemption from local zoning.

Mr. and Mrs. Tessier of 138 Keith Hill Road, the immediate abutter to the west, were asked if they had seen the revised plan. They stated that they had and were satisfied that all their concerns had been met.

The Board discussed the nature of keeping livestock under five acres. Certain uses that come before the Board have been conditioned specifically to the Applicant / Owner and not to the land. Each case and Applicant are unique in nature. Future property owners may not be aware of the requirements and may not adhere to them. Requiring new property owners to establish a special use permit in their name gives the Board and the Town an opportunity to review the situation and set the parameters and conditions specific to the new owners. Mr. Szczurko noted that permits may or may not be adhered to regardless of the Board's decision and that the argument was moot without enforcement. Mr. Hassinger stated that the procedure for enforcing special permit conditions was convoluted and difficult at best which was all the more reason to condition these types of permits to require new owners to appear before the Board. Mr. Hanna agreed that it's important for property owners to understand the Board's concerns and to have that conversation in an open public forum for the protection of all concerned including the abutters. Mr. Prisby noted that enforcement is far more burdensome to the Town in the absence of conditions specific to the property owner.

The Board asked about the number of horses that the Applicant / Owner planned to keep on site. They stated that the barn will have three stalls for a maximum of three horses. They currently plan to house two horses which they own. They further noted that they would like to keep their options open so that they might be allowed to board an additional horse. Mr. Robbins stated that it was in their best interests to ask for conditions that maximized their options for now and the future.

The Applicant asked about the time frame for the Board to make a decision. Mr. Robbins stated that he would not be present at the next Board meeting and that special permits required four affirmative votes to be approved. However, in his absence, the Associate Member could be appointed. The Associate, Mr. Often, was absent from this hearing but could be made eligible through the provisions of the Mullin Rule which requires him to watch the proceeding from a tape and sign a certification stating such. Staff was directed to procure the necessary materials and deliver them to Mr. Often.

Motion to close the proceedings made by Mr. Hanna and seconded by Mr. Scully. Motion passed unanimously.

Motion to direct staff to draft a decision taking into consideration all materials submitted and testimony received made by Mr. Hassinger and seconded by Mr. Scully. Motion passed unanimously.

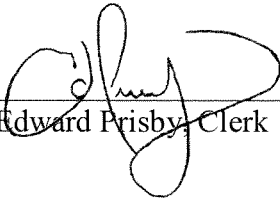
Motion to adjourn the meeting made by Mr. Scully and seconded by Mr. Hanna. Motion passed unanimously.

The meeting was adjourned at 8:15 p.m.

## **EXHIBITS**

- **Action Item 1A: Consider Site Plan 2013-1 – Michael Noel (d/b/a Noel's Auto Sales, Inc.) – 218 Worcester Street**
  - Copy of correspondence to Land Planning, Inc. from the Grafton Conservation Commission, Close of Public Hearing: DEP #164-858 – Notice of Intent, Application for Wetlands Bylaw Permit #693-218 Worcester Street, dated and received September 6, 2013, 1 page.
  - Correspondence from Land Planning, Inc., Micheal F. Noel, 218 Worcester Street, Grafton, MA, dated and received September 9, 2013, 1 page.
  - Planting Plan, Sedimentation & Erosion Control Plan for Proposed Garage & Office Units Located at 218 Worcester Street; prepared by Land Planning, Inc., 24" x 36", black & white, dated September 5, 2013, 1 page.
  - Building Expansion, Noel's Auto Sales, Inc., 218 Worcester Street, North Grafton, MA; prepared by Land Planning, Inc.; submitted by the Applicant at the September 9, 2013 public hearing, 8 ½ x 11", color; 1 page.
- **Item 5: Minutes of Previous Meeting**
  - Open session minutes of August 26, 2013, 6 pages.
- **Public Hearing 9A: Special Permit (SP 2013-6) Faith Szczurko (Applicant/Owner) – Application for Special Permit/Site Plan Approval under ZBL Section 3.2.3.1 Raising and keeping of livestock (3 horses) on a parcel less than 5 acres, on property located at 132 Keith Hill Road.**
  - Copy of Correspondence to Norman Hill, Land Planning, Inc.; Grafton Conservation Commission, Reference: DEP #164-858 – Notice of Intent, Application for Wetlands Bylaw Permit #693-218 Worcester Street, dated and received September 6, 2013, 1 page.
  - Plan, Proposed Barn Plot Plan located at 132 Keith Hill Road, Grafton Massachusetts, dated July 23, 2013, revised September 4, 2013; 11" x 17", black & white, received September 6, 2013, 1 page.
  - Grafton Planning Board Decision, Special Permit 2006-11 – Keeping Livestock (Horses on Less than 5 Acres, 73 & 75 Carroll Road, Carol Vulture, Applicant/ Owner – 73 Carroll Road; Joseph Stines, Owner – 75 Carroll Road; dated October 2, 2006, 6 pages.
  - Grafton Planning Board Decision, Special Permit 1998-7, Madeline Shames White, 11 Old Upton Road, dated July 29, 1998, 4 pages.
  - Grafton Planning Board Decision, Special Permit 1997-2, Madeline Shames White, 11 Old Upton Road, dated April 14, 1997, 4 pages.
  - Grafton Planning Board Decision, Special Permit 1997-5, Joyce E. Norman, 154 Old Upton Road, dated April 14, 1997, 4 pages.

- Grafton Planning Board Decision, Special Permit 1996-11, Lori Mahassel, 22 Meadowbrook Road, dated September 25, 1996, 4 pages.
- Grafton Planning Board Decision, Special Permit 1994-6, Marilyn & Howard Humphreys, 14 George Hill Road, dated September 12, 1984, 4 pages.
- Grafton Planning Board Decision, Special Permit 1993-1, Lori Verdolino, 12 Carroll Road, North Grafton, Keep 2 Horses on Land Under 5 Acres; dated May 18, 1993, 5 pages.
- Grafton Planning Board Decision, Special Permit 1993-2, Janet G. & David Zakar, 172 Brigham Hill Road, North Grafton, , Keep 2 Horses on Land Under 5 Acres; dated March 22, 1993, 5 pages.



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Edward Prisky, Clerk

